

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: : x
: : Chapter 7
ORLY GENGER, : :
Debtor. : Case No.: 19-13895 (JLG)
: :
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SECOND SCHEDULING ORDER

At a conference before the Court on July 2, 2020, the Court established a hearing date, objection deadlines and reply deadlines in connection with (i) *Judgment Creditor Sagi Genger's Amended and Updated Motion to Dismiss and Memorandum of Law in Support* [Dkt. No. 239] (the "**Motion to Dismiss**") and (ii) the *Chapter 7 Trustee's Motion for Order Pursuant to Sections 105, 363, and 364 of the Bankruptcy Code and Bankruptcy Rules 2002, 4001, 6004, 9006 and 9019: Approving (A) Settlement Agreement, (B) Sale of The Debtor's Estate's Causes of Action Against Certain Third Parties, and (C) Financing To Support the Continued Administration of the Case and (D) Granting Related Relief* (the "**Trustee's Motion**") [Dkt. No. 248]. The Court also established deadlines in connection with briefing and argument regarding a legal dispute concerning the applicability of common interest and joint defense and related privileges (collectively, for convenience purposes only, defined as the "**Common Interest Privilege**"). It is hereby **ORDERED** that:

1. The hearing on the Motion to Dismiss and the Trustee's Motion will be held on **August 25, 2020 at 2:00 p.m. (the "Hearing")** before The Honorable James L. Garrity, Jr., United States Bankruptcy Judge, in his Courtroom 601 at the United States Bankruptcy Court for

the Southern District of New York, One Bowling Green, New York, New York 10004, provided however that the Hearing may be conducted telephonically at the Court's discretion.

2. Any responses or objections (collectively, the "**Objections**") to the Motion to Dismiss and Trustee's Motion must be in writing, conform to the Bankruptcy Code, the Bankruptcy Rules and the Court's Local Rules, be electronically filed with the Bankruptcy Court in accordance with General Order No. M-399, which, along with the User's Manual for the Electronic Case Filing System, can be found at the Court's Website, and be served so as to be received by email no later than **August 13, 2020** (the "**Objection Deadline**") by: (i) the Bankruptcy Judge (with two hard copies clearly marked "Chambers Copy" delivered to the Court to the attention of Chambers of The Honorable James L. Garrity, Jr. within one day of filing), (ii) Tarter Krinsky & Drogin LLP, 1350 Broadway, 11th Floor, New York, New York 10018, Attn: Rocco A. Cavalieri, Esq. (rcavaliere@tarterkrinsky.com), (iii) Emmet Marvin & Martin, 120 Broadway, 32nd Floor, New York, New York 10271, Attn: John Dellaportas, Esq. and Thomas Pitta) (jdellaportas@emmetmarvin.com and tpitta@emmetmarvin.com), (iv) all parties having filed Notices of Appearance in this case at the addresses set forth in the Notices of Appearance, and (v) the Office of the United States Trustee for the Southern District of New York, 201 Varick Street, Suite 1006, New York, New York 10014, Attn: Richard Morrissey, Esq. (the "**Notice Parties**").

3. All replies to any Objections shall be filed and served in the manner described in paragraph 2 herein by no later than **August 20, 2020 at 12:00 p.m.** (the "**Reply Deadline**").

4. The legal dispute concerning the applicability of the Common Interest Privilege shall proceed on the following schedule:

- (a) Letter briefs no longer than 10 single space pages concerning the applicability of the Common Interest Privilege shall be filed no later than **July 10, 2020** (the “**Opening Briefs**”);
- (b) Replies to the Opening Briefs shall be filed no later than **July 14, 2020** (the “**Replies**”);
- (c) The Bankruptcy Court shall hold a hearing concerning the applicability of the Common Interest Privilege on **July 21, 2020 at 10:00 a.m.**;
- (d) To the extent the Bankruptcy Court determines that the Common Interest Privilege does not apply, production of documents previously withheld based on an asserted Common Interest Privilege shall be produced no later than **July 31, 2020**, with depositions, if any, completed by **August 11, 2020**;
- (e) Other than as set forth in paragraph 4(d), all discovery in connection with the Motion to Dismiss and the Trustee’s Motion shall be completed by **July 15, 2020**.

5. In the event of a dispute over discovery, the relevant parties shall promptly confer to attempt in good faith to resolve the dispute. If notwithstanding their good faith efforts to do so, counsel is unable to resolve a discovery dispute, they shall promptly request a telephonic discovery conference.

6. The Court may modify the dates set forth herein for good cause shown.

7. This Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

Dated: New York, New York
July 20, 2020

/s/ *James L. Garrity, Jr.*

HONORABLE JAMES L. GARRITY, JR.
UNITED STATES BANKRUPTCY JUDGE